

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BEATRICE JEFFERSON

Plaintiff,

V.

QUALITY COMMUNITY HEALTHCARE, INC.,

and

QUALITY COMMUNITY HEALTHCARE FAMILY

HEALTHCARE CENTER,

and

QCHC FAMILY CENTER,

and

DANAIL VATEV, M.D.,

and

DEBORAH ROBINSON, P.A.,

and

TODD E. NIXON, M.D.,

and

MCP HAHNEMANN UNIVERSITY,

Defendants.

ORDER

AND NOW, this day of , 2000, upon consideration of the Motion To Substitute United States of America for Defendants, Quality Community HealthCare, Inc., Quality Community HealthCare Family HealthCare Center, QCHC Family Center, Danail Vatev, M.D. and Deborah Robinson, P.A., the Motion is GRANTED and it is hereby ORDERED that the United States is substituted as defendant.

J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BEATRICE JEFFERSON	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 02-2965
	:	
QUALITY COMMUNITY HEALTHCARE, INC.,	:	
and	:	
QUALITY COMMUNITY HEALTHCARE FAMILY	:	
HEALTHCARE CENTER,	:	
and	:	
QCHC FAMILY CENTER,	:	
and	:	
DANAIL VATEV, M.D.,	:	
and	:	
DEBORAH ROBINSON, P.A.,	:	
and	:	
TODD E. NIXON, M.D.,	:	
and	:	
MCP HAHNEMANN UNIVERSITY,	:	
Defendants.	:	

**MOTION TO SUBSTITUTE
UNITED STATES OF AMERICA FOR
DEFENDANTS. QUALITY COMMUNITY HEALTHCARE, INC.,
QUALITY COMMUNITY HEALTHCARE FAMILY HEALTHCARE CENTER,
DANAIL VATEV, M.D., and DEBORAH ROBINSON**

The United States of America, on behalf of the VA Medical Center, requests that the Court enter an Order substituting the United States for defendants, Quality Community HealthCare, Inc., Quality Community HealthCare Family HealthCare Center, QCHC Family Center, Danail Vatev, M.D. and Deborah Robinson, P.A., for the following reasons:

1. Plaintiff has brought a complaint alleging common law torts against, *inter alia*, defendants, Quality Community HealthCare, Inc., Quality Community HealthCare Family HealthCare Center, QCHC Family Center, Danail Vatev, M.D. and Deborah Robinson, P.A.,

2. Dr. Danail Vatev and Deborah Robinson were employees of Quality Community HealthCare for all relevant periods of time. *See* Gov't Exhibits 1, 2 (W-2 forms for Danail Vatev and Deborah Robinson, respectively).

3. Plaintiff, Beatrice Jefferson, was first seen at Quality Community HealthCare in 1997.

4. The Secretary of Health & Human Services ("HHS") deemed Quality Community HealthCare, Inc., an HHS grantee, and its employees to be employees of the Public Health Service, a federal agency, on or about October 7, 1993, thus deeming Quality Community HealthCare, Inc. and its employees eligible for Federal Tort Claims Act coverage. *See* 42 U.S.C. § 233(G)(1)(A). *See* Gov't Exhibit 3 (deeming letters).

5. The Federal Tort Claims Act ("FTCA") is the exclusive remedy for "damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions" by Public Health Service employees acting within the scope of their employment. *See* 42 U.S.C. § 233(a).

6. Under the Federal Tort Claims Act, a suit may not be brought directly against a federal agency for a common law tort; rather, under the act, the proper defendant in such an action against a federal agency is the United States of America. 28 U.S.C. § 2679(a).

7. Under the Federal Tort Claims Act, the proper defendant in this action is the United States.

WHEREFORE, the United States respectfully requests that an Order be entered

substituting the United States of America for defendants, Quality Community HealthCare, Inc., Quality Community HealthCare Family HealthCare Center, QCHC Family Center, Danail Vatev, M.D. and Deborah Robinson, P.A., in this action.

Respectfully submitted,

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Counsel for United States of America

Dated: August 23, 2002

CERTIFICATE OF SERVICE

I hereby certify that, on this date, a true and correct copy of the foregoing Motion to Substitute United States of America for Defendants, Quality Community HealthCare, Inc., Quality Community HealthCare Family HealthCare Center, QCHC Family Center, Danail Vatev, M.D. and Deborah Robinson, P.A., was served by First Class mail, postage prepaid, upon the following:

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Dated: August 23, 2002